

24044. Alleged adulteration and misbranding of ether. U. S. v. 15 Cans of Ether. Tried to the court. Judgment for the claimant. Libel dismissed. (F. & D. no. 32008. Sample no. 49118-A.)

On February 20, 1934, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cans of ether at Macon, Ga., alleging that the article had been shipped in interstate commerce on or about January 11, 1934, by Merck & Co., Inc., from Rahway, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "1 lb. Ether Merck U. S. P. X. Merck & Co., Inc., New York."

Analysis of a sample consisting of 10 cans showed the presence of peroxide in one of the cans examined.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, its strength, quality, and purity differed from the standard prescribed by that authority, and its own standard was not stated on the label.

Misbranding was alleged in that the statement on the label, "Ether * * * USP X", was false and misleading and deceived and misled the purchaser.

On January 10, 1935, Merck & Company, Inc., having appeared as claimant for the property, the case came on for trial before the court. Evidence on behalf of the Government and the claimant was submitted and argument of counsel heard, at the conclusion of which the court handed down the following judgment (Deaver, *district judge*):

"I find that the United States failed to carry the burden imposed upon it by law. I find that the Government is not entitled to the relief prayed. It is, therefore, *Decreed*, that the prayers of said bill for libel be denied; that the merchandise seized under said libel be delivered to the claimant, Merck & Co., Inc.; and that the libel be dismissed."

M. L. WILSON, *Acting Secretary of Agriculture.*

24045. Misbranding of Dr. G. B. Williams' Pills. U. S. v. 141 Packages of Dr. G. B. Williams' Pills. Default decree of condemnation and destruction. (F. & D. no. 32075. Sample no. 49435-A.)

This case involved an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On or about March 6, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 141 packages of Dr. G. B. Williams' Pills at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about February 13, 1934, by the Interstate Drug Co. from Quitman, Ga., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of compounds of mercury and antimony, and ingredients derived from plant drugs including aloe, podophyllum, and an alkaloidal drug.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects were false and fraudulent: (Bottle label) "Recommended for * * * biliousness, and all troubles arising from inactive liver. * * * Dose: 1 to 3 every other night at bedtime; children under ten years old, one-half pill in honey or syrup"; (carton) "Recommended for the relief of discomfort due to Biliousness, * * * or any Liver disorder."

On December 22, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24046. Misbranding of Nunn's Black Oil Healing Compound. U. S. v. John A. Houghton and George W. Reed (Dr. Nunn's Black Oil Co., Inc.). Plea of guilty. Fine, \$25. (F. & D. no. 32090. Sample no. 35938-A.)

This case involved a drug preparation which had been sold under a guaranty that it complied with the Food and Drugs Act, but which was misbranded, since the label contained unwarranted curative and therapeutic claims, and which was subsequently shipped in interstate commerce.

On October 6, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court